

UNITED STATES DISTRICT COURT
THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

Disability Rights North Carolina,)	
North Carolina's Protection and)	
Advocacy System,)	
)	
<i>Plaintiff,</i>)	CIVIL CASE NO.: 5:16-cv-854
)	
v.)	
)	
Mandy Cohen, Secretary of North Carolina)	
Department of Health and Human Services,)	
in her official capacity;)	
)	
<i>Defendant.</i>)	

JOINT MOTION TO ENTER MODIFICATION OF SETTLEMENT AGREEMENT
AND EXTEND JURISDICTION

Pursuant to the Court's November 9, 2016 Order on the Parties' Joint Motion to Dismiss without Prejudice and Retain Jurisdiction, Plaintiff, Disability Rights North Carolina ("Disability Rights NC") and Defendant North Carolina Department of Health and Human Services ("Department") jointly move this Court to extend the term of the Court's retention of jurisdiction from June 30, 2018 to December 31, 2018, as set forth in the Modification of the Settlement Agreement.

On October 14, 2016, the parties jointly moved the Court to enter an order conditionally dismissing this action, without prejudice, pursuant to Federal Rule of Civil Procedure 41(a)(2), and retaining jurisdiction to enforce the Parties' Settlement Agreement ("Agreement"), in accordance with its terms, for its duration. The Agreement resolved the claims regarding Disability Rights NC's allegations that the Department is violating provisions of the Medicaid Act concerning Early and Periodic Screening, Diagnostic and Treatment Services ("EPSDT").

On November 9, 2016, the Court granted the motion to dismiss, conditionally dismissed the action, and retained jurisdiction to enforce the Agreement.

The parties have been working together collaboratively to implement the substantive provisions of the Agreement, and substantial progress has been made. However, on the March 5, 2018 Disability Rights NC sent a letter to the Department and asked the Department to take immediate steps to correct a noncompliance pursuant to Section V.E of the Agreement. On April 20, 2018, the Department notified Disability Rights NC that it disagreed with the assertions and issued proposed actions items in a plan of correction to ensure continued compliance. DRNC has accepted the plan of correction, and the Department is currently in the process of implementing its plan of correction.

Therefore, the parties have agreed to modify the Agreement, which are set forth in the Modification (Attachment A.). The Modification extends the Agreement's terms in Section IV B2 and Section V. C. by six months from June 30, 2018 to December 31, 2018.

For the reasons set forth above, the parties respectfully request that the Court enter the attached proposed order to modify the Settlement Agreement and to retain jurisdiction to enforce the Agreement as modified.

This the 31st day of May, 2018.

Respectfully submitted,

FOR THE PLAINTIFFS

/s/ John R. Rittelmeyer
John R. Rittelmeyer

john.rittelmeyer@disabilityrightsnc.org
N.C. State Bar No. 17204

Iris P. Green
iris.green@disabilityrightsnc.org
N.C. State Bar 27861

Tadra Martin
tadra.martin@disabilityrightsnc.org
N.C. State Bar 37705

DISABILITY RIGHTS North Carolina
3724 National Drive, Suite 100
Raleigh, NC 27612
Phone: (919) 856-2195
Fax: (919)856-2244

/s/ Martha Jane Perkins

Martha Jane Perkins
perkins@healthlaw.org
Kimberly Lewis
lewis@healthlaw.org

NATIONAL HEALTH LAW PROGRAM, INC.
200 N. Greensboro St., Suite D-13
Carrboro, NC 27510
Phone: (919) 968-6308 (x101)

ATTORNEYS FOR PLAINTIFF

FOR DEFENDANT

/s/ Scott Stroud
Scott Stroud
North Carolina Bar No. 24552
North Carolina Department of Justice
Special Deputy Attorney General
114 West Edenton Street
Raleigh, NC 27602
(919) 716-6881 F: (919) 716-6756
ststroud@ncdoj.gov

ATTORNEY FOR DEFENDANT